

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption)	NOTICE OF PUBLIC HEARING
of Rule I through XV and the)	ON PROPOSED ADOPTION AND
amendment of ARM 37.106.1946)	AMENDMENT
pertaining to outpatient)	
crisis response facilities)	

TO: All Interested Persons

1. On January 4, 2006, at 2:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed adoption and amendment of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on December 27, 2005, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@mt.gov.

2. The rules as proposed to be adopted provide as follows:

RULE I OUTPATIENT CRISIS RESPONSE FACILITY: APPLICATION OF OTHER RULES (1) To the extent that other licensure rules in ARM Title 37, chapter 106, subchapter 3, conflict with the terms of this subchapter, the terms of this subchapter will apply to outpatient crisis response facilities.

AUTH: Sec. 50-5-103, MCA
IMP: Sec. 50-5-103, MCA

RULE II OUTPATIENT CRISIS RESPONSE FACILITY: DEFINITIONS
In addition to the definitions in 50-5-101, MCA, the following definitions apply to this subchapter:

(1) "Inpatient crisis stabilization program" means 24-hour supervised treatment for adults with a mental illness for the purpose of stabilizing the individual's symptoms.

(2) "Outpatient crisis response facility" means an outpatient facility operated by a licensed hospital or a licensed mental health center that provides evaluation, assessment, intervention and referral for individuals experiencing a crisis due to serious mental illness or a serious mental illness with a co-occurring substance use disorder. The facility may not provide services to a client for more than 23

hours and 59 minutes from the time the client arrives at the facility. The facility must discharge or transfer the client to the appropriate level of care.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE III OUTPATIENT CRISIS RESPONSE FACILITY: SERVICES AND LICENSURE (1) Each applicant for licensure shall submit a license application to the department requesting approval to provide outpatient crisis services.

(a) A licensed hospital does not have to comply with the requirements found at ARM 37.106.1906(3) to provide outpatient crisis response services.

(2) Services provided by an outpatient crisis response facility must be rendered by:

(a) a single administration in a discrete physical facility or multiple facilities; or

(b) written agreement or contract with:

(i) licensed health care professionals;

(ii) licensed mental health professionals; or

(iii) other facilities such as hospital, clinics, or educational institutions which may combine to provide crisis services.

(3) Outpatient crisis response facility services must be available to clients continuously throughout the year.

(4) An outpatient crisis response facility must report to the department, in writing, any of the following changes within at least 30 days before the planned effective date of the change:

(a) a change of administrator;

(b) a change of medical director;

(c) any change in administrative location or service location;

(d) a change in the name of the agency; or

(e) the discontinuation of services.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, 50-5-201, and 50-5-203, MCA

RULE IV OUTPATIENT CRISIS RESPONSE FACILITY: ORGANIZATIONAL STRUCTURE (1) Each crisis response facility shall employ or contract with an administrator who shall:

(a) maintain daily overall responsibility for the crisis response facility's operations;

(b) develop and oversee the implementation of policies and procedures pertaining to the operation and services of the crisis response facility;

(c) establish written orientation and training procedures for all employees including new employees, relief workers, temporary employees, students, interns, volunteers, and trainees. The training must include orientation on all the crisis response facility's policies and procedures;

(d) develop an organizational chart that accurately

reflects the current lines of administration and authority; and

(e) maintain a file for all client incident reports.

(2) Each outpatient crisis response facility shall employ or contract with a medical director who shall:

(a) coordinate with and advise the staff of the outpatient crisis response facility on clinical matters;

(b) provide direction, consultation, and training regarding the outpatient crisis response facility's programs and operations as needed;

(c) act as a liaison for the outpatient crisis response facility with community physicians, hospital staff, and other professionals and agencies with regard to psychiatric or hospital services; and

(d) ensure the quality of treatment and related services through participation in the outpatient crisis response facility's quality assurance process.

(3) Each outpatient crisis response facility shall employ or contract with a program supervisor who is a licensed mental health professional knowledgeable about the service and support needs of individuals with co-occurring mental illness and intoxication/addiction disorders who may be experiencing a crisis. The program supervisor must be site based.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE V OUTPATIENT CRISIS RESPONSE FACILITY: STAFFING AND OPERATIONS (1) In addition to the requirements established in this subchapter, each outpatient crisis response facility shall comply with the requirements established in this rule. The outpatient crisis response facility shall require staff working in the facility:

(a) to be at least 18 years of age;

(b) possess a high school diploma or GED; and

(c) be capable of implementing each client's crisis facility treatment plan.

(2) The facility must ensure the program supervisor and all staff each have a minimum of six contact hours of annual training relating to the service and support needs of individuals with mental illness experiencing a crisis.

(3) The facility must orient direct care staff, prior to their contact with clients, on the following:

(a) the types of mental illness and treatment approaches;

(b) alcohol and drug intoxication treatment approaches;

(c) dependence and addiction treatment approaches;

(d) suicide risk assessment and prevention procedures; and

(e) program policies and procedures, including emergency procedures.

(4) The facility must orient staff within four weeks of employment on the following:

(a) therapeutic communications;

(b) legal responsibilities of mental health service providers;

(c) mental health and substance abuse laws of Montana

relating to the rights of consumers;

(d) other services provided by mental health centers and substance abuse providers; and

(e) infection control and prevention of transmission of blood borne pathogens.

(5) The facility must annually train staff in the abdominal thrust maneuver and ensure staff maintain current certification in cardiopulmonary resuscitation (CPR).

(6) The facility must maintain 24-hour awake staff.

(7) The facility must maintain staff-to-patient ratio dictated by client need.

(8) The facility must establish admission criteria that assess the individual client's needs and the appropriateness of the services to meet those needs. At a minimum, admission criteria must require that the client:

(a) be at least 18 years of age;

(b) be medically stable, with the exception of the person's mental illness or serious mental illness with a co-occurring substance use disorder; and

(c) be in need of frequent observation on an ongoing basis.

(9) The facility must provide each client upon admission, or as soon as possible if not clinically appropriate upon admission with:

(a) a written statement of client rights which, at a minimum, includes the applicable patient rights in 53-21-142, MCA;

(b) a copy of the crisis response facility grievance procedure; and

(c) the written rules of conduct including the consequences for violating the rules.

(10) The facility must ensure inpatient care is available through a transfer agreement for clients in need of a higher level of care.

(11) The facility must maintain progress notes for each client. The progress notes must be entered following the clinical intake assessment and updated in a timely manner into the client's clinical record. The progress notes must describe the client's physical condition, mental status, and involvement in treatment services.

(12) The facility must make referrals for services that would help prevent or diminish future crises at the time of the client's discharge. Referrals include, but are not limited to, additional treatment or training or assistance such as securing housing.

(13) The program supervisor and program staff must be trained in the therapeutic de-escalation of crisis situations to ensure the protection and safety of clients and staff. The training must:

(a) include the use of physical and nonphysical methods of managing clients; and

(b) be updated at least annually to ensure that necessary skills are maintained.

AUTH: Sec. 50-50-103, MCA
IMP: Sec. 50-5-103, MCA

RULE VI OUTPATIENT CRISIS RESPONSE FACILITY: POLICIES AND PROCEDURES (1) Each outpatient crisis response facility shall maintain a policy and procedure manual. The manual must be reviewed and approved, at least annually, by the medical director and administrator. The manual must, at a minimum, contain policies and procedures for:

(a) defining the responsibilities, limitations, and supervision of students, interns, and volunteers working for the crisis response facility;

(b) verifying each professional staff member's credentials, when hired, and annually thereafter, to ensure the continued validity of required licenses;

(c) client complaints and grievances, to include an opportunity for appeal, and to inform clients of the availability of advocacy organizations to assist them;

(d) completing a medical screening and determining methods for medical stabilization and criteria for transfer to appropriate level of medical care that may include emergency care in a hospital;

(e) interacting with clients considered to be at risk for harming themselves or others who attempt to leave the facility without discharge authorization from the licensed mental health professional responsible for their treatment;

(f) increasing or decreasing staff coverage as indicated by client need;

(g) identifying client rights, including a procedure for informing clients of their rights;

(h) addressing and reviewing ethical issues faced by staff and reporting allegations of ethics violations to the applicable professional licensing authority;

(i) informing clients of the policy and procedures for client complaints and grievances;

(j) initiating services to clients;

(k) informing clients of rules governing their conduct and the types of infractions that can result in suspension or discontinuation of services offered by the crisis response facility;

(l) suspending or discontinuing program services with the following information to be provided to the client:

(i) the reason for suspending or discontinuing services or access to programs;

(ii) the conditions that must be met to resume services or access to programs;

(iii) the grievance procedure that may be used to appeal the suspension or discontinuation; and

(iv) what services, if any, will be continued to be provided even though participation in a particular service or program may be suspended or discontinued.

AUTH: Sec. 50-5-103, MCA
IMP: Sec. 50-5-103, MCA

RULE VII OUTPATIENT CRISIS RESPONSE FACILITY: CLINICAL RECORDS (1) Each crisis response facility shall collect assessment data and maintain clinical records on all clients who receive services.

(2) Each facility must ensure the confidentiality of clinical records in accordance with the Uniform Health Care Information Act, Title 50, chapter 16, part 5, MCA.

(3) At a minimum, the clinical record must include:

(a) a clinical intake assessment;

(b) additional assessments or evaluations, if clinically indicated;

(c) a copy of the client's individualized crisis treatment plan and all modifications to the crisis treatment plan;

(d) progress notes which indicate whether or not the stated treatment plan has been implemented, and the degree to which the client is progressing, or failing to progress, toward stated treatment objectives;

(e) medication orders from the prescribing physician and documentation of the administration of all medications;

(f) signed orders by a licensed mental health professional for any restrictions of rights; and, privileges accorded clients of the crisis response facility including the reasons for the restriction; and

(g) a discharge summary which must be completed within one week of the date of discharge.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE VIII OUTPATIENT CRISIS RESPONSE FACILITY: CLIENT ASSESSMENTS (1) Each outpatient crisis response facility shall employ or contract with licensed mental health professionals to conduct clinical intake assessments which may be abbreviated assessments focusing on the crisis issues and safety.

(a) Abbreviated intake assessments must be conducted by a licensed mental health professional trained in clinical assessments including chemical dependency screening. The clinical intake assessment must include sufficient detail to individualize crisis plan goals and objectives.

(2) Based on the client's clinical needs, each crisis response facility will refer any necessary additional assessments to appropriate and qualified providers. Additional assessments may include, but are not limited to, physical, psychological, emotional, behavioral, psychosocial, recreational, vocational, psychiatric, and chemical dependency evaluations.

(3) Each crisis response facility shall maintain a current list of providers who accept referrals for assessments and services not provided by the facility.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE IX OUTPATIENT CRISIS RESPONSE FACILITY: CLIENT

DISCHARGE (1) Each outpatient crisis response facility shall prepare a discharge summary for each client no longer receiving services. The discharge summary must include:

- (a) the reason for discharge;
- (b) a summary of the services provided by the crisis response facility including recommendations for aftercare services and referrals to other services, if applicable;
- (c) an evaluation of the client's progress as measured by the treatment plan and the impact of the services provided by the facility; and
- (d) the signature of the staff member who prepared the report and the date of preparation.

(2) Discharge summary reports must be filed in the clinical record within one week of the date of the client's formal discharge from services.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE X OUTPATIENT CRISIS RESPONSE FACILITY: PERSONNEL RECORDS (1) For each employee or contracted individual, the outpatient crisis response facility shall maintain the following information on file:

- (a) a current job description;
- (b) if a licensed mental health professional, documentation of current licensure and certification; and
- (c) dated documentation of the individual's involvement in orientation, training, and continuing education activities.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE XI OUTPATIENT CRISIS RESPONSE FACILITY: QUALITY ASSESSMENT (1) Each outpatient crisis response facility shall implement and maintain an active quality assessment program using information collected to make improvements in the facility's policies, procedures and services. At a minimum, the program must include procedures for:

- (a) conducting client satisfaction surveys, at least annually;
- (b) maintaining records on the occurrence, duration, and frequency of seclusion and physical restraints used; and
- (c) reviewing, on an ongoing basis, incident reports, grievances, complaints, medication errors, and the use of seclusion and/or physical restraint with special attention given to identifying patterns and making necessary changes in how services are provided.

(2) Each crisis response facility shall prepare and maintain on file an annual report of improvements made as a result of the quality assessment program.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE XII OUTPATIENT CRISIS RESPONSE FACILITY: COMPLIANCE WITH BUILDING AND FIRE CODES, FIRE EXTINGUISHERS, SMOKE DETECTORS, AND MAINTENANCE

(1) Each outpatient crisis response facility shall ensure that its facilities, buildings, and homes:

(a) meet all applicable state and local building and fire codes. The facility must be annually inspected for compliance with fire codes by the state fire marshal or the marshal's designee, and the facility shall maintain a record of such inspection for at least one year following the date of the inspection;

(b) have a workable portable fire extinguisher on each floor, with a minimum rating of 2A10BC. Extinguishers must be readily accessible at all times;

(c) have a properly maintained and monthly tested smoke detector, approved by a recognized testing laboratory, on each floor of the facility; and

(d) have building exits which must be unobstructed and clearly marked.

(2) Each facility shall ensure its facilities, buildings, homes, equipment, and grounds are clean and maintained in good repair at all times for the safety and well being of its clients, staff, and visitors.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE XIII OUTPATIENT CRISIS RESPONSE FACILITY: PHYSICAL ENVIRONMENT

(1) Each outpatient crisis response facility must ensure that no more than four clients reside in a single treatment room. Each treatment room must contain at least 80 square feet per client, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules. Each center must further provide:

(a) one toilet for every four clients;

(b) a hand washing sink in each toilet room;

(c) one bathing facility for every 12 clients; and

(d) showers and tubs with nonslip surfaces and handicap grab bars capable of supporting a sustained weight of 250 lbs.

(2) Any provision of this rule may be waived at the discretion of the department if conditions in existence prior to the adoption of this rule or construction factors would make compliance extremely difficult or impossible and if the department determines that the level of safety to clients and staff is not diminished.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE XIV OUTPATIENT CRISIS RESPONSE FACILITY: EMERGENCY PROCEDURES

(1) Each outpatient crisis response facility shall develop a written plan for emergency procedures. At a minimum, the plan must include:

(a) emergency evacuation procedures to be followed in the case of fire or other emergency;

(b) procedures for contacting emergency service responders; and

(c) the names and phone numbers for contacting other crisis response facility staff in emergency situations.

(2) Telephone numbers of the hospital, police department, fire department, ambulance, and poison control center must be posted by each telephone.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

RULE XV OUTPATIENT CRISIS RESPONSE FACILITY: MANAGEMENT OF INAPPROPRIATE CLIENT BEHAVIOR (1) The facility must develop and implement written policies and procedures that govern the management of inappropriate client behavior only as allowed in 42 CFR 482.13(f)(1) through (6).

(2) The department adopts and incorporates by reference 42 CFR 482.13(f)(1) through (6) (July 2, 1999), which contains standards for use of seclusion and restraint for behavioral management.

(3) The policies and procedures must:

(a) specify all facility-approved interventions to manage inappropriate client behavior and designate these interventions on a hierarchy to be implemented, ranging from most positive or least intrusive, to least positive or most intrusive;

(b) ensure, prior to the use of more restrictive techniques, that the client's record documents that programs incorporating the use of less intrusive or more positive techniques have been tried systematically and demonstrated to be ineffective; and

(c) address the following:

(i) the use of observation and seclusion rooms;

(ii) the use of time-out procedures;

(iii) the use of appropriate medication to manage inappropriate behavior;

(iv) the staff members who may authorize the use of specified interventions; and

(v) a mechanism for monitoring and controlling the use of such interventions.

(4) Interventions to manage inappropriate client behavior must be employed with sufficient safeguards and supervision to ensure that the safety, welfare, and civil and human rights of each client are adequately protected.

(5) Techniques to manage inappropriate client behavior must never be used for disciplinary purposes, for the convenience of staff or as a substitute for a treatment and habilitation program.

(6) The use of systematic interventions to manage inappropriate client behavior must be incorporated into the client's crisis facility treatment plan.

(7) Standing or as needed programs to control inappropriate behavior are not permitted.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, MCA

3. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.106.1946 MENTAL HEALTH CENTER: INPATIENT CRISIS STABILIZATION PROGRAM (1) In addition to the requirements established in this subchapter, each mental health center providing ~~a~~ an inpatient crisis stabilization program shall comply with the requirements established in this rule.

(2) remains the same.

(3) The inpatient crisis stabilization program shall:

(a) through (d)(iii) remain the same.

(e) orient staff within eight weeks from assuming the duties of the position on:

(i) through (iv) remain the same.

(v) infection control and prevention of transmission of blood borne pathogens~~;~~i

(f) through (j)(vii) remain the same.

(k) establish written policies and procedures:

(i) and (ii) remain the same.

(iii) for the secure storage of toxic household chemicals and sharp household items such as utensils and tools~~;~~i

(l) when clinically appropriate, provide each resident upon admission, or as soon as possible thereafter:

(i) and (ii) remain the same.

(iii) the written rules of conduct including the consequences for violating the rules~~;~~i

(m) ensure ~~inpatient psychiatric~~ hospital care is available through a transfer agreement for residents in need of hospitalization;

(n) and (o) remain the same.

(4) The program supervisor and program staff must be trained in the therapeutic de-escalation of crisis situations to ensure the protection and safety of the residents and staff. The training must include the use of physical and non-physical methods of managing residents and must be updated, at least annually, to ensure that necessary skills are maintained.

AUTH: Sec. 50-5-103, MCA

IMP: Sec. 50-5-103, and 50-5-204, MCA

4. The proposed adoptions and amendments describe a new level of care that addresses a need to respond to mental health crisis within a community based setting. A crisis response facility is intended to provide, when medically appropriate, an alternative to inpatient or hospital care through evaluation, assessment, intervention and referral. The proposed new rules describe the minimum standards for an outpatient crisis response facility that will provide less than 24-hour care for individuals experiencing a crisis due to serious mental illness or serious mental illness with a co-occurring substance use disorder. The Department has authority to adopt rules and

minimum standards pursuant to 50-5-103, MCA.

The crisis response facility level of care is not currently available within either the public mental health or chemical dependency system in Montana. Individuals who will be served in this type of facility are now routinely seen in a hospital emergency room or transported to the Montana State Hospital at considerable public expense. An outpatient crisis response facility provides a setting for clinical assessment, evaluation, and referral without placing an unnecessary pressure on limited hospital resources. Those individuals determined to need inpatient or hospital care will be transported to appropriate treatment through a standing transfer agreement. For those who do not require inpatient care, the crisis response facility provides a less expensive alternative for assessment of clinical need and referral to the appropriate available resources in the community.

A crisis response facility will be licensed by the Department of Public Health and Human Services to ensure program and facility standards for protection of the general public. The facility will employ or contract with an administrator who shall maintain overall daily responsibility for the facility's operations, a medical director who shall advise staff on clinical matters, and a program supervisor who is a licensed mental health professional knowledgeable about the service and support needs of individuals experiencing a mental health crisis or those with co-occurring mental illness and substance use disorders.

The proposed amendments identify requirements for policies and procedures, clinical records, client assessments, client discharge, management of inappropriate client behavior, and quality assessment. Finally, the proposed amendments establish the minimum requirements for the physical environment, personnel records, and staffing and operations. The Department has compared the requirements of other mental health service settings, and proposes these minimum requirements for care in this type of facility.

These rules are necessary to establish a standard of minimum requirements for the provision of services in order to protect the health and safety of persons seeking these services.

The number of facilities that will seek licensing of this sort is unknown. There will be no fiscal impact.

5. Interested persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on January 12, 2006. Data, views or arguments may also be submitted by facsimile to (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The Department also

maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

6. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

Dawn Sliva
Rule Reviewer

Joan Miles
Director, Public Health and
Human Services

Certified to the Secretary of State November 28, 2005.